IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6496 of 2007()

OS.474/2007 of MUNSIFF COURT, HOSDRUG
Cr.No.425 of BAKEL POLICE STATION

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: PETITIONER/ACCUSED

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1. A.NARAYANAN NAIR, AGED 45 YEARS,
   S/O. MUNDATH KUNHIRAMAN NAIR, RESIDING AT
   ADIYODAR MOOLA HOUSE, MYLATTI PANAYAL VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

2. A.KUNHIKANNAN NAIR, AGED 37 YEARS,
   S/O. MUNDATH KUNHIRAMAN NAIR, RESIDING AT
   ADIYODAR MOOLA HOUSE, MYLATTI PANAYAL VILLAGE,
   HOSDURG TALUK, KASARAGOD DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT & STATE

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1. STATE, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. THE STATION HOUSE OFFICER,
   (CR. NO.425 OF 2007 OF BAKEL POLICE STATION),
   KASARAGOD DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6496 of 2007

Dated this the 31st day of October, 2007

ORDER

Application for anticipatory bail. Petitioners face allegations in a crime registered under Sections 447, 427 and 379 r/w 34 I.P.C. The petitioners are brothers. The allegation is that they stealthily removed a door frame from a building, construction of which is going on. The construction is done by the defacto complainant on behalf of his principal. There is a dispute between the principal and the 1st accused about the rights in respect of the property in which the construction is going on. The crux of the allegation is that the petitioners had stealthily removed the door frame at about 10.45 p.m on 13.10.07. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Because of the civil dispute and because of the fact that the petitioners had gone to court to get the further construction stayed, as a retaliation and counter blast, allegations are being raised against the petitioners. The petitioners are respectable persons and the allegation of theft is resorted to only to bring them to ridicule. The petitioners are prepared to abide by any

conditions. They may be saved of the undeserved trauma of arrest and detention, submits the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that while it is evident that the civil dispute is there, that cannot be a valid defence for the allegation of theft, which the police on investigation is satisfied, had really taken place.

4. Having considered all the relevant inputs, notwithstanding the opposition by the learned Public Prosecutor , I am satisfied, that the petitioners can be granted anticipatory bail subject of course to appropriate conditions which shall ensure the interests of a fair, efficient and expeditious investigation.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 07.11.07. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3

p.m on 08.11.07 and 09.11.07. During this period, the Investigating Officer shall be entitled to interrogate the petitioners in custody and take all necessary steps in the investigation of the crime. Thereafter the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 07.11.07. as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 07.11.2007.

(R.BASANT, JUDGE)

rtr/-